



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

November 28, 1962

Honorable D. Roy Harrington
Chairman, Interim Study Committee
Game, Fish & Wildlife Resources
Austin, Texas

Opinion No. WW-1481

Re: Term of office of members
of the State Senate, and
related questions.

Dear Mr. Harrington:

Your request for an opinion reads as follows:

"I am requesting a formal opinion regarding term of office of members of the Texas State Senate.

"1. What is the earliest date a new Senator-elect - (elected November 6, 1962) can qualify for office by taking oath prescribed by the constitution?

"2. Does the annual salary of a new member of the Texas State Senate commence on the date he takes the oath of office? If not, on what date can such a salary legally be commenced?"

In Attorney General's Opinion WW-1476 (1962), it was held that the earliest date a newly elected member of the House of Representatives could qualify for office was the date of the canvassing of the returns of the General Election held on November 6th, 1962. This holding was based on the express provisions of Section 4 of Article III of the Constitution of Texas wherein it provides that their term of office shall be "from the day of their election." Section 3 of Article III, providing the term of office of State Senators, on the contrary, does not contain similar language. Therefore, the holding in Attorney General's Opinion WW-1476, applicable to members of the House of Representatives, is not applicable to State Senators.

Section 3 of Article III of the Constitution of Texas provides:

"Sec. 3. The Senators shall be chosen by the qualified electors for the term of four years; but a new Senate shall be chosen after every apportionment, and the Senators elected after each apportionment shall be divided by lot into two classes. The seats of the Senators of the first class shall be vacated at the expiration of the first two years, and those of the second class at the expiration of four years, so that one half of the Senators shall be chosen biennially thereafter."

It is noted that the beginning date of the term of office of State Senators is not provided for in Section 3 of Article III of the Constitution of Texas. Furthermore, the length of the term of office of any particular State Senator cannot be determined after each apportionment until the Senators draw for the two-year and four-year term of office. This will be accomplished with the convening of the next Regular Session of the Senate.

Therefore, in view of the foregoing and the fact that the Constitution and statutes of this State are silent as to the beginning date of the term of office of State Senators, and in view of the longstanding custom for State Senators to take their oaths of office with the convening of the State Senate, it is our opinion that a new Senator-elect (elected in the election held on November 6th, 1962) can qualify for office on the date of the convening of the Senate. His annual salary would commence on the date he qualifies for office. There seems to be no law fixing an earlier date, so we suggest that the Senate follow its long time practice.

SUMMARY

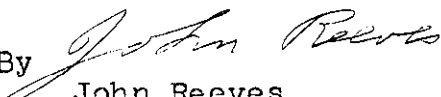
A new Senator-elect (elected in the election held on November 6th, 1962) can qualify for office on the convening of the Senate. His annual salary commences on the date he qualifies

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for office. We find no law
permitting an earlier date.

Yours very truly,

WILL WILSON
Attorney General of Texas

By 
John Reeves
Assistant Attorney General

JR:ms

APPROVED:

OPINION COMMITTEE
W. V. Geppert, Chairman

Joseph Trimble
W. O. Shultz
L. P. Lollar

REVIEWED FOR THE ATTORNEY GENERAL
By: Leonard Passmore